

*Minutes*  
**DAGSBORO TOWN COUNCIL**  
**Virtual Meeting**  
**Monday, January 24, 2022**

**I. CALL MEETING TO ORDER**

Mayor Baull stated that this meeting is being conducted remotely consistent with Governor Carney's executive order due to the current State of Emergency in the State of Delaware given the surge of COVID-19 Omicron. The Governor's order suspends the requirement of the open meeting law to have all meetings in a publicly accessible physical location, further all members of public bodies are allowed and encouraged to participate remotely. This order also allows public bodies to meet entirely remotely as long as reasonable public access is afforded so that the public may follow along with the deliberations of the meeting. All the votes as well as discussions will be taken individually so that all the Council members will have the time to speak if they so choose also so we can properly document it. Mayor Baull stated that this meeting is being recorded and Town Administrator Brought is taking notes as well.

Meeting was called to order by Mayor Baull at 6:00 p.m.

In attendance were: Mayor Brian Baull, Vice-Mayor Theresa Ulrich, Councilman William Chandler, Councilman Norwood Truitt, Councilman William Labor, Town Administrator Cynthia Brought, Engineering Consultant Kyle Gulbranson, and Town Solicitor Greg Morris. See sign in sheet for others in attendance.

**II. PUBLIC COMMENT**

No public comment was made.

**III. PUBLIC HEARING**

Greg Morris

1. A RESOLUTION TO AMEND CHAPTER 130-5 E TO THE MUNICIPAL CODE OF THE TOWN OF DAGSBORO TO INCREASE THE CAPITAL IMPROVEMENT IMPACT FEE
2. AN ORDINANCE TO AMEND CHAPTER 130-5 E TO THE MUNICIPAL CODE OF THE TOWN OF DAGSBORO BY AMENDING THE CAPITAL IMPROVEMENT IMPACT FEE
3. A RESOLUTION TO INCREASE THE WATER CONNECTION FEE TO \$2,600 FOR EACH BUILDING
4. A RESOLUTION AMENDING SECTION 275-8 DEFINITIONS AND WORD USE AND 275-21 (A) OF THE TOWN CODE
5. AN ORDINANCE TO AMEND SECTIONS 275-8 AND 275-21 (A) PRINCIPAL PERMITTED USES ON THE LAND AND IN THE BUILDINGS IN THE TOWN CENTER DISTRICT

Town Solicitor Morris stated that the first Ordinance is to amend Chapter 130-5 E which is to increase the Capital Improvement Impact Fee from \$1,500 to \$2,500 and that is the only change being made to the proposed Ordinance.

Town Solicitor Morris instructed as to how the public hearing works. He confirmed with Town Administrator Brought that the Notice for Public Hearing was published; she stated "yes it was." Those in favor of the Resolution/Ordinance may speak first and those in opposition shall be permitted to speak afterwards. When you speak, please identify yourself, your address and limit your comment to five (5) minutes. Any member of council may ask questions of the speaker or staff pertaining to the comments made by any of the speakers. After all persons desiring to be heard have had an opportunity to speak, the public hearing will be closed upon a proper motion by Council. The Mayor shall then inquire if Council desires to discuss the matter any further and then they shall consider whether or not they are going to vote for or against the proposed Resolution/Ordinance.

Town Solicitor Morris stated that with no one coming forward for or against he turned it over to Town Council for any questions, concerns or statements that they may have.

Vice-Mayor Ulrich stated she understood that the purpose is to increase it for the Capital Improvements and the money is set aside for roads and things of that nature. Her concern was that the increase of \$1,000 will discourage builders from Dagsboro because of the fees.

Councilman Truitt asked how this fee is compared to other towns. Engineering Consultant Gulbranson stated that he felt the Water Connection Fee and the Impact Fee aren't too far off from what other towns are charging.

Councilman Chandler stated that this isn't a building permit fee it is a Capital Improvement Fee and Town Council recently passed the Ordinances that created the Transportation Fund and the Public Services Fund but this Impact Fee is dedicated to Capital Improvements. For example, the new police building, if the police need new vehicles, or at some point the town may need a new Town Hall building; this would all be considered Capital Improvements. He stated that this fee would be dedicated to Capital Improvements and that is the difference between this and the building permit fee. Vice-Mayor Ulrich stated that she understood that part, but that it is collected with the building permit application. Councilman Chandler stated that is correct and it has always been in the Town Code, but has not been increased for decades. This is an effort to simply bring the Town Code more current and to reflect that we are going to incur significant Capital Improvement costs going forward. This is to help offset the anticipated future costs that the Town of Dagsboro will incur when it builds the new police department.

Councilman Labor asked how many of these fees were collected over the last 3-5 years and where were those funds appropriated. He recalls the discussion of the new police building and the breakdown of funds, some of them were accounted for, but some weren't. He asked if there is any prediction of how many fees we are planning to collect and what would be the reason to increase them from \$1,500 to \$2,500. He stated that fire and ambulance fees are already collected in addition to the Public Service

Impact Fee and he is curious how those fees are used versus how this fee is used. Town Administrator Brought stated that the Fire and Ambulance Fees go to the Dagsboro Fire Department on a quarterly basis. She stated that as far as how many Capital Improvement fees that have been collected over the years would take some research, but it basically sits in its own bank account at this point and is only used for certain things. Engineering Consultant Gulbranson stated that he felt that over the last five years that the town has been averaging between 5 and 12 new homes per year. Councilman Labor stated that he doesn't necessarily oppose the idea but doesn't see where the numbers show the need to do the increase. It may just be that he doesn't see where the funds will be appropriated. Town Solicitor Morris stated that the increase is to bring the rate up to current standards that other towns are using as the \$1,500 has been in place for many years and may not have been meeting the needs of the Town.

Engineering Consultant Gulbranson asked Council if these Ordinances are adopted at this meeting, would they be effective immediately as there are applications in place that are going to be affected or would fees be deferred? He stated that 2 development proposals have submitted applications. Mayor Baull asked Town Solicitor Morris if the applications that have been submitted would be affected. Mr. Morris stated that ultimately it is Town Council's decision as to when they want it to become effective and if those applicants will be affected.

The Resolution/Ordinance to amend Chapter 130-5 E to the Municipal Code of the Town of Dagsboro was passed with a vote of 4-1, Councilman Labor opposing. Councilman Labor asked since he opposed if he could bring this to the table at a later time. Town Solicitor Morris stated that the Ordinance as it stands has been passed with Town Council adopting the Ordinance. Councilman Labor asked to confirm if it could be brought up again at a later date given proper notice. Town Solicitor Morris stated that would be correct, Ordinances can be changed at any time provided the FOIA is followed and enough notice is provided for a Public Hearing.

Councilman Chandler asked Mayor Baull if the deferment would apply to the Water Connection Fee increase or is it just applying to Chapter 130-5 E. Mayor Baull stated he felt just this one because there are two Site Plan Reviews submitted. Councilman Chandler asked for confirmation that there are not any water connection applications or requests. Town Administrator Brought stated not at this point in time.

Engineering Consultant Gulbranson stated that the question is the way they are drafted it states that the fee are due at the time of either the connection or at the time the building permit is issued. Mayor Baull stated yes, it states at the time a building permit for said structure is issued. Mr. Gulbranson stated that if someone has submitted an application for a new subdivision, would this apply to them when they pull a permit or would they fall under the old rate. He stated, realistically, the two applicants probably won't be pulling permits for at least a year. Town Solicitor Morris stated that unless the Council decides otherwise, they would fall under the \$2,500 rate.

#### A RESOLUTION TO INCREASE THE WATER CONNECTION FEE TO \$2600 FOR EACH BUILDING

Town Solicitor Morris stated that this is a Resolution not an Ordinance, as this fee is not set in an Ordinance. Town Council has control of all building permit fees and associated fees on each form informing applicants what the fee is. He stated that the proposal for the Resolution is to increase the fee to \$2,600 and the purpose is to bring it current with other municipalities. Town Administrator Brought stated that the original fee was \$2,000. The reason for the increase is that the connection fee is costing the town about \$2,400. The rate has increased by the contractor and therefore it is suggested to increase the fee to \$2,600 to avoid changing it again in the near future. Town Solicitor Morris stated that it is his understanding that the reason for this proposal is the Town was losing money on this item. Town Administrator Brought stated that is correct.

Mayor Baull stated that with no one coming forward either for or against, it is turned over to Town Council for any questions, concerns or statements that they may have.

Councilman Chandler stated that he moved to approve it as we have been running a deficit so we might as well get this up to what we are being charged and he is in favor of it.

The Resolution to increase the Water Connection Fee to \$2,600 was passed with 5-0 vote.

#### A RESOLUTION AMENDING SECTION 275-8 DEFINITIONS AND WORD USE AND 275-21 (A) OF THE TOWN CODE

#### AN ORDINANCE TO AMEND SECTIONS 275-8 AND 275-21 (A) PRINCIPAL PERMITTED USES ON THE LAND AND IN THE BUILDINGS IN THE TOWN CENTER DISTRICT

Town Solicitor Morris stated that this was discussed at the last Town Council meeting and the recommendations were proposed by the P&Z Committee. Mr. Morris drafted the Ordinance defining the items added in Section 275-8 of the Ordinance, Section 275-21 (A) 1-24 contains a list of permitted uses and 275-21 (A) 25-27 contains the non-permitted uses in the Town Center District.

Councilman Labor stated that he has concern with the wording in (25) the storage of liquor, beer, and wine because restaurants and bars are allowed so therefore he felt it is contradicting as restaurants would store those substances in order to sell them. Engineering Consultant Gulbranson stated that the P&Z Commission discussed in length breweries and distilleries and they felt those types of uses would be better served in the Highway Commercial District. Councilman Labor felt that the word storage could raise questions as restaurants would store cases and kegs. He questions the difference between a restaurant and a bar versus a Thompson Island and/or an Ocean View brewery where they have production although he felt it is mainly focused around the restaurant. Engineering Consultant Gulbranson stated that he understood Councilman Labor's point but with places like he mentioned they are producing product there and sell on premises. It is not production where they are bottling product and selling it elsewhere. Mayor Baull asked Town Solicitor Morris if this could still be passed if the word

storage was stricken. Mr. Morris stated that if any part of the language was to be stricken, now is the time to do it. Mr. Gulbranson stated that in (25) that a brewery in the Town Center District is a non-permitted use and therefore if Town Council is interested in striking the word storage, that particular use would have to move into the permitted use section. He stated that if you were to allow brewing and distillation as part of a restaurant then the language would need to change.

Councilman Chandler stated that he understood the intention of the P&Z Commission to be that there wouldn't be facilities in the Town Center District that would be manufacturing and producing spirits, alcohol etc. Restaurants would be selling it, but it is not the same as producing and making it on site. He stated if there is an ambiguity in the language then he defers to Mr. Morris, but he felt this shouldn't be re-written in the middle of a Public Hearing. This should go back to the P&Z Commission for clarification.

Vice-Mayor Ulrich stated that she read it as combined because it states that the production, storage, distillation, manufacturing, processing, distribution, and wholesale and retail sale of liquor, beer, wine, and hard cider, are not permitted in this district. She felt it wasn't meant to remove one thing out of the sentence. It should read as is, and should not be permitted in Town Center District. Councilman Chandler agreed that it is all of those things combined and that is not permitted in this district. He felt that it is clear and he agreed to leave as is.

The Resolution/Ordinance to amend Town Code Section 275-8 Definitions and Word Use and 275-21 (A) Principal Permitted Uses on the Land and in the Buildings in the Town Center District passed with a 4-1 vote with Councilman Labor opposing.

#### **IV. APPROVAL OF MINUTES**

##### **December 20, 2021 Town Council Meeting**

Councilman Chandler made a motion to approve the minutes as submitted. Vice-Mayor Ulrich seconded the motion. All were in favor.

#### **V. CONSENT AGENDA**

##### **a. Police Department Report**

Chief Flood stated that over the last couple of weeks there have been reports of residents vehicle's being broken into when the vehicle is unlocked and he would just like to ask the residents to be mindful and lock your vehicles to hopefully prevent this. He would like residents to report if this has happened to them as it will help the police department build a case.

##### **b. Treasurer's Report**

##### **c. Administrative Report**

##### **d. Building Official Report**

##### **e. Code Enforcement Report**

- f. Meeting Reports
- g. Water Department Report
- h. Prince George's Chapel Cemetery Report
- i. Correspondence

Councilman Chandler asked Town Administrator Brought in regard to the water changeover when she felt they could start reviewing the water fees due to the switchover from Millsboro to Artesian. She stated by March or April, as she would like to get at least two bills in from Artesian.

Councilman Chandler asked Ms. Brought if she knew why the Savannah Square businesses tend to leave. She stated it is unclear, but felt that it may be poor management and high rent. Mayor Baull asked if there was anything the Town could do to remedy any of it. She stated that Stacy and Engineering Consultant Gulbranson met with the new property manager but not sure if it will make a difference.

Councilman Chandler made a motion to approve the consent agenda. Councilman Truitt seconded the motion. All were in favor.

#### **VI. NEW BUSINESS**

- a. Appointment P&Z Commissioners Cathy Flowers and Cindy Gallimore for another three (3) year term (January 2022 – December 2025) – Both have agreed to another three (3) year term- Discussion/Vote Reappointment

Councilman Chandler made a motion to re-appoint Cathy Flowers and Cindy Gallimore to another 3 year term to the P&Z Commission. Councilman Labor seconded the motion. All were in favor.

#### **VII. OLD BUSINESS**

- a. Discussion Draft Ordinance – Annexation Impact Fees (Greg Morris/Secretary Chandler)  
Possible Vote Public Hearing February 21, 2022

Councilman Chandler stated that the purpose of the annexation fee is due to future town annexations of a property as there is a process that the town has to go through. A Committee is created to investigate the potential annexation area. The Committee examines the property and the purpose for annexing it. The Town Solicitor and Engineering Consultant are involved in the process. In past instances, when a property was annexed into Town the expenses incurred by the Town were costs that the Town just had to eat as there was no way to defray those costs. This fee would compensate those expenses. He stated that the idea is to set a fee at a reasonable amount, not necessarily at \$12,000 per acre like the Town of Millsboro. Town Council, at their discretion, could waive the fee due to circumstances where the fee is unnecessary or excessive for what is being proposed. For instance, small communities like Timmons Acres, which is outside the Town's jurisdiction, would want to annex into the Town. It is approximately 6-10 acres with about 7-10 homes and the Town Council could say that they don't need to collect the fee per acre for example \$8,000 per acre. The Town Council could reduce the fee due to

the size of the community asking to be annexed in is small relative to the process of a community of 100 or 200 acres.

Councilman Labor asked Councilman Chandler if knew what the fees were over the last 3-5 years that the Town has incurred due to the annexation process. Councilman Chandler stated that he does not have the numbers at hand, maybe Town Administrator Brought would know, but for example the Bireley property was annexed and then de-annexed. He stated he does not know what the Legal Counsel and Engineering fees were. Town Administrator Brought stated that she was not here at that time and therefore it would have to be researched. Councilman Labor stated that this proposal doesn't include de-annexation it only covers annexation. Councilman Chandler stated that is correct. Councilman Labor stated that he would like to have justification of the cost of annexation to ensure that the fee of \$10,000, that is proposed, would be enough to cover the expenses for annexation.

Vice-Mayor Ulrich stated that if we want the Town to grow, charging higher fees is going to deter growth and asked if we want more tax revenue in the future.

Councilman Chandler stated that the amount of the annexation fee, as he stated earlier, would have a reasonable discourse and part of that analysis would be to be informed of what the cost was in the past. He stated that he is trying to do what the residents, who elected him, want Dagsboro to look like in the future. He didn't agree with Vice-Mayor Ulrich that it will deter people from wanting to develop and build homes here. He felt that we don't have to arbitrage Dagsboro's fees and costs in permit fees for the benefit of those who want to develop developments. They are able to pass those costs on to their buyers which is what they typically do. He felt confused as to why this is going to deter people who want to invest in Dagsboro. If they want to invest in Dagsboro here is what it will cost to be a part of this community and it would benefit all of the community. He stated that we don't have many annexations but when we do, the Town should be able to recoup its out of pocket costs. He felt it is not unreasonable to collect these fees for those that want to be brought into the jurisdiction and be a part of the Town and we shouldn't be imposing those costs on current residents. He is open to discourse on what would be a reasonable annexation fee, based on the out of pocket costs that the Town incurs.

Mayor Baull felt that this proposed Ordinance should not be considered for a Public Hearing next month. He would like to have the research from Town Administrator Brought, Town Solicitor Morris, and Engineering Consultant Gulbranson along with an estimated cost of annexation.

**b. Discussion Draft Resolution – Amend (R) Building Permit Fees Involving More Than Five Homes (Greg Morris/Secretary Chandler) Possible Vote Public Hearing February 21, 2022**

Town Solicitor Morris stated that this Resolution came before the Council last month and a brief discussion was held with Council wanting more time to think about it. Building permit fees will be determined according to the impact and size of the development and how it will affect Dagsboro's infrastructure, police, and other expenses incurred.

Mayor Baull asked Engineering Consultant Gulbronson if these figures were comparable to other towns. Mr. Gulbronson stated that he is not aware of a town that has a sliding scale based on the number of homes. He stated that most towns charge a straight permit fee or a fee based on the value of the house. Councilman Truitt asked if the charge was a percentage. Mr. Gulbronson stated yes, it based on the square footage of the home. The average building permit fee for a normal size home in the Town of Dagsboro is about \$2,500.

Councilman Chandler addressed Mr. Gulbronson as to the current building permit fee being the cost per square foot for building a house. When Mr. Chandler reviewed the Code, it's based on \$85 per square foot and he felt that can't possibly be the right number. Mr. Gulbronson stated that it is correct as that part has not been increased in a number of years. When the representatives from Schell Brothers met with Town Administrator Brought and me, he actually stated to them that \$85 a square foot wasn't a relevant cost anymore. Mr. Chandler stated that he is being told the average cost is \$200 per square foot. He asked Mr. Gulbronson if it would make more sense to adjust the square foot cost in our Code or would that be a problematic way of doing this. Mr. Gulbronson stated that it makes sense, but the only thing is the cost of construction materials is different every day with costs increasing. If the Town changed the square foot cost you would need to review that more frequently to ensure that the fee is where it should be in terms of the cost. Councilman Chandler felt that changing the square foot price may be better than the sliding scales because of the point that Mr. Gulbronson made. All were in favor of tabling this until they can get the numbers regarding current square footage costs for comparison.

c. Updates/Questions/Comments Schell Brothers Proposed Project – Riverview Associates

Town Administrator Brought stated that Schell Brothers were not on this call. Mayor Baull stated this would be put on the agenda for next month.

**VIII. PUBLIC COMMENT**

No public comment was made.

**IX. ADJOURNMENT**

Vice-Mayor Ulrich made a motion to adjourn. Councilman Chandler seconded the motion. All were in favor.

Meeting adjourned at 7:12 p.m.

Respectfully Submitted,

Stacy West, Town Clerk